

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:-

SUSAN LAURA LEVIN,

Case No. 817-77330-LAS

Debtor.
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NOTICE OF MOTION TO AVOID JUDICIAL LIENS

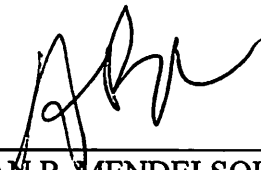
SIRS/MADAMS:

PLEASE TAKE NOTICE, that upon the annexed Affidavit dated March 15, 2018 of SUSAN LAURA LEVIN, and the application of Allan B. Mendelsohn, the undersigned will move this Court before the Honorable Louis A. Scarcella, Bankruptcy Judge, on the **17th day of May 2018 at 10:00 AM** at the United States Bankruptcy Court, Long Island Federal Courthouse, 290 Federal Plaza, Courtroom 970, Central Islip, New York 11731 or as soon thereafter as counsel can be heard, or an Order pursuant to 11 USC §522(f) and Local Rule 9013(b), avoiding the judicial lien of Alex Astilean as to the Debtor's real property located at 10 Wagon Lane, East Hampton, New York, together with such other and further relief as is just and proper.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the proposed Order must be in writing and filed with the Clerk of the Court, United States Bankruptcy Court, Eastern District of New York, 290 Federal Plaza, Central Islip, New York 11722, (a)(i) through the Bankruptcy Court's electronic filing system (in accordance with General Order M-242), which may be accessed (with a password which is available by contacting the Bankruptcy Court's technical assistance at 631-712-6200, Monday through Friday, 8:30 AM to 5:00 PM) through the Internet of the Bankruptcy Court's website; www.nyeb.uscourts.gov using Netscape Navigator

version 3.0 or higher, and (ii) in portable document format (PDF) using Adobe Exchange software for conversion; or (b) if a party is unable to file electronically, such party shall submit the objection in PDF format on a diskette in an envelope with the case name, case number, type and title of document, document number of the document to which the objection refers, and the file name on the outside of the envelope; or (c) if a party is unable to file electronically or use PDF format such party shall submit the objection on a diskette in either Word, WordPerfect, or DOS text (ASC II) format. An objection filed by a party with no legal representation shall comply with section (b) or (c) as set forth in this paragraph. A hard copy of the objection, whether filed pursuant to section (a), (b) or (c), as set forth in this paragraph, shall be hand-delivered directly to the Chambers of the Honorable Louis A. Scarcella, and served so as to be received by Allan B. Mendelsohn, Trustee, at 38 New Street, Huntington, New York 11743, no later than **May 10, 2018**.

Dated: Huntington, New York
April 18, 2018



ALLAN B. MENDELSON
ALLAN B. MENDELSON, LLP
38 New Street
Huntington, New York 11743
(631) 923-1625

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Case No. 817-77330-LAS

SUSAN LAURA LEVIN,

Debtor.
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**APPLICATION IN SUPPORT
OF MOTION TO AVOID
JUDICIAL LIEN**

TO: HONORABLE LOUIS A. SCARCELLA
UNITED STATES BANKRUPTCY JUDGE

Susan Laura Levin (the "Debtor") by her attorneys, Allan B. Mendelsohn, LLP, makes this Application in Support of the Motion to Avoid Judicial Lien pursuant to 11 USC §522(f), of the Bankruptcy Code and respectfully represents:

1. The Debtor filed a Chapter 7 Bankruptcy Petition on November 28, 2017.

JUDICIAL LIEN

2. As of the Bankruptcy filing date, the Debtor owned her residence at 10 Wagon Lane, East Hampton, New York (the "real property") in fee simple.

3. Prior to the Bankruptcy filing, the following creditor had obtained a judgment against the Debtor which judgment was docketed in the Office of the Suffolk County Clerk and remains unsatisfied.

Judicial Lien	Date Docketed	Amount Total
ALEX ASTILEAN	02/24/2014	\$97,109.30

- 4) There are also several federal and state tax liens of record which, on their face, total more than \$500,000.00.

- 5) Annexed hereto, as Exhibit "A", is a copy of the pre-petition judgment search.

- 6) The Debtor has paid down those tax liens and, as of the filing date, believes approximately \$140,000.00 was owed on those liens. Annexed hereto, as Exhibit "B", are copies

of recent correspondence from the taxing authorities evidencing approximately \$140,000.00 now due.

7) By Notice of Motion, dated January 22, 2018, the first mortgagee, Eastern Savings Bank, sought relief from stay alleging that the indebtedness owed was more than \$725,000.00 (see paragraph 18 of motion). Counsel has requested, but not yet obtained a payoff letter. Eastern Savings Bank failed to submit the required worksheet in connection with the motion.

8) Based on the appraisal from Cliff Troyansky, the residence has a fair market value of \$1,000,000.00 on the filing date. A copy of the appraisal is annexed hereto s Exhibit "C".

9) The Debtor has asserted a New York homestead exemption on Schedule C of the bankruptcy petition in the amount of \$165,000.00.

10) Pursuant to New York CPLR 5004, interest on the judgment runs at a rate of 9% per annum based on simple interest.

11) Therefore, it is clear that there is no equity in the property above the Debtor's homestead exemption.


12) The calculation is as follows:

\$1,000,000.00	fair market value
<u>\$ 725,000.00</u>	mortgage obligations
\$ 275,000.00	total equity in the property
<u>\$ 140,000.00</u>	statutory tax liens
\$ 135,000.00	equity in the property
\$ 165,000.00	homestead exemption
- 0 -	remaining equity for judgment creditor

13) As a result, the judicial lien of the judgment creditor, as set forth herein, should be avoided since the judgment impairs the exemption to which the Debtor is entitled pursuant to §522(f), of the Bankruptcy Code.

WHEREFORE, it is respectfully requested that an Order be entered herein avoiding the judicial lien of the judgment creditor set forth in this application pursuant to §522(f), of the Bankruptcy Code, together with such other and further relief as this Court deems just and proper.

Dated: Huntington, New York
April 18, 2018



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UNITED STATES BANKRUPTCY COURT
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Case No. 817-77330-LAS

SUSAN LAURA LEVIN,

AFFIDAVIT OF MAILING

Debtor.
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STATE OF NEW YORK, COUNTY OF SUFFOLK ss.:


The undersigned, residing at the address set forth below, being duly sworn, deposes and says: that deponent is not a party to this action, and is over the age of eighteen (18) years.

That on the date this affidavit was sworn to, deponent served a copy of the within Notice of Motion to Avoid Judicial Lien upon:

Alex Astilean, 196 Buckskill Road, East Hampton, New York 11957

Jamie T. Corio, Esq., 34 Alewire Brook Road, P.O. Box 2056, East
Hampton, New York 11937

the address(es) designated for that purpose, by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, first class mail, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.



Allan B. Mendelsohn
Kings Park, New York

Sworn to before me this
18 day of April 2018



Notary Public

MICHAEL J. O'SULLIVAN
Notary Public, State of New York
No. 020S4985526
Qualified in Nassau County
Commission Expires August 19, 20 21

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